

EXHIBIT 5

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
MDL-NO. 16-2738 (FLW) (LHG)

IN RE: JOHNSON & JOHNSON

TALCUM POWDER PRODUCTS

MARKETING, SALES PRACTICES,

AND PRODUCTS LIABILITY

LITIGATION

ORAL DEPOSITION OF:

DANIEL L.
CLARKE-PEARSON, MD

VOLUME 1

* * * *

THURSDAY, AUGUST 26, 2021

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MASTROIANNI & FORMAROLI, INC.

Certified Court Reporting & Videoconferencing

515 South White Horse Pike

Audubon, New Jersey 08106

856-546-1100

1 imagine what that would be.

2 BY MS. BROWN:

3 Q. So you disagree with that conclusion of
4 the Wentzensen authors?

5 **A. Yes.**

6 Q. And so fair to say, then, you did not
7 consider in forming your specific causation opinion
8 regarding Ms. Converse, the potential of an unknown
9 confounder that could have caused her ovarian cancer?

10 MS. THOMPSON: Objection.

11 THE WITNESS: I think, once again, to
12 go back to my multiple mutations, if you're talking
13 about one other thing that's causing a mutation,
14 anything is possible. But it's not probable. We
15 haven't been able to identify that in the decades
16 that we've been looking at this issue.

17 BY MS. BROWN:

18 Q. But, in fact, isn't it statistically
19 probable?

20 If you look at the known causes of
21 ovarian cancer versus the percentage of ovarian
22 cancer cases that we do not know the cause for,
23 statistically there are more cases for which we do
24 not know the cause than ones for which we claim we do
25 know the cause. Right?

1 MS. THOMPSON: Objection.

2 THE WITNESS: Yes. That's true for any
3 cancer.

4 BY MS. BROWN:

5 Q. Right.

6 I mean so statistically, the
7 overwhelming majority of ovarian cancer cases do not
8 have a cause.

9 MS. THOMPSON: Objection.

10 THE WITNESS: They have a cause, we
11 haven't been able to identify it.

12 BY MS. BROWN:

13 Q. Exactly my point.

14 And so how do you know that Ms. Hilary
15 Converse did not get cancer because of one of the
16 causes we have not yet identified?

17 MS. THOMPSON: Objection.

18 THE WITNESS: Because I don't believe
19 it's going to be by one cause. It's many causes that
20 result in the multiple mutations, 5 to 10, that
21 result in the cancer. So we may not know all the
22 causes of those other mutations.

23 BY MS. BROWN:

24 Q. But we don't know most of them.

25 Why couldn't it have been -- why

1 **contribution to her developing ovarian cancer from**
2 **talcum powder was her perineal application over 45**
3 **years.**

4 Q. And have you attempted to determine how
5 much talc Ms. Converse was exposed to over the time
6 period she claims to have used talc?

7 MS. THOMPSON: Object to form.

8 THE WITNESS: I'm not quite sure
9 what -- you're asking me to quantitate, is that --

10 BY MS. BROWN:

11 Q. Sure.

12 **A. I don't think anybody can quantitate**
13 **that. We just knew the frequency that she was using**
14 **it.**

15 Q. And is there a specific amount of
16 talcum powder, in your mind, that a woman like
17 Ms. Converse needs to use to have talc be the cause
18 of her ovarian cancer?

19 MS. THOMPSON: Objection.

20 THE WITNESS: I don't thing we have --
21 we don't have a specific amount, that I'm aware of.

22 BY MS. BROWN:

23 Q. Do you believe that Ms. Converse's
24 clear cell ovarian cancer was caused by asbestos?

25 MS. THOMPSON: Objection.

1 THE WITNESS: No. I don't know that
2 that -- there is no evidence of that.

3 BY MS. BROWN:

4 Q. Do you believe that Ms. Converse's
5 ovarian cancer was caused by heavy metals?

6 MS. THOMPSON: Objection.

7 THE WITNESS: Let me rephrase it that I
8 don't know what it is about talcum powder that caused
9 her ovarian cancer.

10 Could it be heavy metals? Could it be
11 fragrances? Could it be asbestos that we're not
12 aware of?

13 I would just say that Johnson's Baby
14 Powder causes ovarian cancer. Whatever the
15 constituents are, I don't think anybody can pin that
16 down.

17 BY MS. BROWN:

18 Q. You're not offering an opinion is it
19 relates to Hilary Converse that it was a particular
20 contaminant of Johnson's Baby Powder that caused her
21 ovarian cancer, is that fair?

22 A. That's fair.

23 Q. You are not going to come to trial and
24 say it was asbestos contamination in some bottles she
25 used that caused her ovarian cancer, is that fair?

1 MS. THOMPSON: Objection.

2 THE WITNESS: I will not be saying that
3 unless there is new evidence.

4 BY MS. BROWN:

5 Q. Okay. And the same would be true for
6 heavy metals or fragrances, you're not going to come
7 to trial and say it's the particular heavy metal or a
8 particular fragrance component of baby powder that
9 caused her ovarian cancer?

10 MS. THOMPSON: Objection.

11 THE WITNESS: I will just be saying
12 Johnson's Baby Powder was one of the causes of her
13 ovarian cancer.

14 BY MS. BROWN:

15 Q. Are you aware of whether or not any
16 bottle of Johnson's Baby Powder that Ms. Converse
17 claims to have used was ever tested for any potential
18 contaminants?

19 A. I didn't see any of that in the
20 depositions.

21 Q. Have you ever determined the cause of
22 an individual woman's clear cell ovarian cancer?

23 MS. THOMPSON: Objection.

24 THE WITNESS: I think there are causes.
25 We don't stick with one cause, but there is multiple

1 causes that result in the mutation that cause the
2 cancer.

3 Having said that, I don't think that
4 any of us know what those mutations are specifically.
5 BY MS. BROWN:

6 Q. And what you're saying is in any
7 individual woman, we don't know all of the causes
8 that come together to cause the mutation that cause
9 clear cell carcinoma?

10 MS. THOMPSON: Objection.

11 THE WITNESS: Yes. We know some of the
12 causes, but not always all of them.

13 BY MS. BROWN:

14 Q. Do you believe that clear cell
15 carcinoma, like the kind Ms. Converse had, has the
16 same etiology as high-grade serous carcinoma?

17 MS. THOMPSON: Objection.

18 THE WITNESS: I think, as we talked
19 about before the break, there are different pathways,
20 but what causes some of those mutations that add up
21 to cause that cancer can be similar across the
22 different epithelial ovarian cancers. And then some
23 pathways are different.

24 BY MS. BROWN:

25 Q. Did you make a determination about when

1 THE WITNESS: Yes.

2 BY MS. BROWN:

3 Q. I had asked you some questions before
4 about whether or not you were going to opine that
5 asbestos or heavy metals or fragrances is what caused
6 Ms. Converse's cancer. Do you recall those
7 questions?

8 A. Yes.

9 Q. I inadvertently left out fibrous talc.
10 Are you going to opine that it was
11 fibrous talc, however you define that term, that was
12 the cause of Ms. Converse's clear cell cancer?

13 MS. THOMPSON: Objection.

14 THE WITNESS: It's certainly a
15 possibility. I keep saying that whatever is in
16 talcum powder caused her ovarian cancer was a cause
17 of her ovarian cancer.

18 BY MS. BROWN:

19 Q. And I think what you mean by that,
20 Doctor, is whatever the product was that was studied
21 in the epidemiology is the product that you're
22 opining on?

23 MS. THOMPSON: Objection.

24 THE WITNESS: Yes.

25 BY MS. BROWN:

1 Q. You can't rule out an unknown cause of
2 Ms. Converse's ovarian cancer, true?

3 MS. THOMPSON: Objection.

4 THE WITNESS: That's true.

5 BY MS. BROWN:

6 Q. Did you consider Ms. Converse's age as
7 a cause of her ovarian cancer?

8 A. Her age at diagnosis was 58. The
9 average age of women with ovarian cancer is 63. So I
10 felt she was younger than that. So a lower risk.
11 And so, therefore, less risk than if she had been
12 over 63.

13 Q. Okay. Do you think that a woman who
14 develops ovarian cancer below the age of 63 does not
15 have age as a component of her ovarian cancer?

16 MS. THOMPSON: Objection.

17 THE WITNESS: That's probably part of
18 the -- I mean it contributes somewhat.

19 BY MS. BROWN:

20 Q. Yeah, because I mean the truth is, once
21 you get to like your 30s or your 40s, right, you
22 start becoming at an increased risk of ovarian cancer
23 just because of your inability to repair mutations
24 that we were talking about earlier, right?

25 MS. THOMPSON: Objection.

1 record states that -- first of all, Ms. Converse was
2 undergoing high risk breast cancer surveillance, did
3 you know that?

4 **A. Yes.**

5 Q. And it says: The patient herself has
6 undergone testing for BRCA1 and 2, including full
7 sequencing of the genes as well as B-A-R-T.

8 What's that?

9 **A. That's a more -- my understanding is**
10 **it's a more extensive panel.**

11 Q. And this testing has been negative.
12 However, given the patient's personal history of
13 ovarian cancer, as well as a significant family
14 history of young breast cancer in the patient's
15 mother, as well as a pancreatic cancer in the
16 patient's maternal grandmother, I do imagine that the
17 patient's family may carry a gene for a hereditary
18 breast slash ovarian cancer syndrome that has yet
19 been unidentified. Thus, I do think she merits high
20 risk surveillance.

21 **A. Okay.**

22 Q. Would you take a look at that, please.

23 **A. Yeah, that's what you read.**

24 Q. So Ms. Converse's treating physician
25 believed she may have a genetic mutation that has yet

1 been identified by scientists, correct?

2 MS. THOMPSON: Objection.

3 THE WITNESS: That's what he says or
4 she says, I'm not sure. She may have a mutation.
5 There are lots of things that may happen or are
6 possible.

7 BY MS. BROWN:

8 Q. But before forming the opinion that
9 talc was a cause of her ovarian cancer, did you
10 consider and discount the possibility, as her
11 treating physician suggests, that she might have a
12 genetic mutation for breast slash ovarian cancer
13 syndrome?

14 MS. THOMPSON: Objection.

15 THE WITNESS: It's hard to do that when
16 there has been -- there is no doubt there will be new
17 genes identified somewhere in the future. She's had
18 the maximum evaluation that I'm aware of to date for
19 genetic mutation. She doesn't have one.

20 Is it possible that she could have a
21 mutation, that her family may have a mutation? Sure,
22 anything is possible. I don't think it's probable,
23 but I think it's possible.

24 But did I consider that? Yeah, we've
25 been talking about the family history of breast

1 cancer which increases her risk a little bit.

2 Whether that's from a gene mutation or something

3 else, who knows?

4 BY MS. BROWN:

5 Q. And you understand that these treating

6 physicians are not talking about like anything is

7 possible, right? They point to the reasons in this

8 medical record why they think she may have a genetic

9 mutation.

10 MS. THOMPSON: Objection.

11 THE WITNESS: I would underline may.

12 BY MS. BROWN:

13 Q. In fact, did you consider the medical

14 record that says: The genetics team believes she has

15 a mutation that has not been discovered yet?

16 MS. THOMPSON: Objection.

17 THE WITNESS: I'm not sure I read that,

18 but if you've read it, that's fine.

19 BY MS. BROWN:

20 Q. Let's take a look at it. It's tab 39.

21 Kate, if we could mark tab 29 as

22 Exhibit 28, which is a ProHealth Physicians of Hamden

23 medical record.

24 (Exhibit 28, ProHealth Physicians of

25 Hamden medical record, is marked for identification)

1 **A. That was a notation that I obtained**
2 **from the medical record.**

3 Q. Do your opinions in this case depend on
4 your opinion that the mom was diagnosed with
5 post-menopausal breast cancer?

6 MS. THOMPSON: Objection.

7 THE WITNESS: Without -- from the
8 medical records I reviewed, she was called
9 post-menopausal.

10 BY MS. BROWN:

11 Q. Okay. And, of course, she herself had
12 ovarian cancer.

13 I recommended that the patient contact
14 a genetics counselor as her last BRCA gene mutation
15 determination, which was negative, was performed 13
16 years ago, and based on that, any further
17 recommendations for her daughter regarding additional
18 testing or prophylactic surgery can develop. I did
19 give her the name of Dr. Alan Ratner should her
20 daughter require surgery.

21 Do you see that?

22 **A. Yes.**

23 Q. Did you consider Dr. Schwartz's
24 discussions with Ms. Converse regarding potential
25 prophylactic surgery for her daughter in forming your

1 opinions in this case?

2 MS. THOMPSON: Objection.

3 THE WITNESS: You'll have to repeat the
4 last part of that question.

5 BY MS. BROWN:

6 Q. Did you consider medical records like
7 the one we're looking at at Exhibit 29 regarding
8 discussions with healthcare providers concerning
9 potential prophylactic surgery for her daughter in
10 forming your opinions in the Converse case?

11 MS. THOMPSON: Objection.

12 THE WITNESS: I mean I've read Dr.
13 Schwartz's note, it's fairly inclusive as to what the
14 recommendations really are, except for her to get
15 further -- her daughter to get further genetic
16 testing. He does not recommend prophylactic surgery.
17 He gives her the name of a surgeon that could do that
18 surgery.

19 BY MS. BROWN:

20 Q. Sitting here today, do you recall any
21 of the medical records discussing potential
22 prophylactic surgery for Ms. Converse's daughter?

23 MS. THOMPSON: Objection.

24 THE WITNESS: I remember there was
25 conversations about -- some discussions, but I don't

1 think I ever saw any recommendation that she should.

2 BY MS. BROWN:

3 Q. Okay. Did you review the Yale-New
4 Haven health medical record that states:
5 Recommendations made for daughter to have
6 oophorectomy after completion of childbearing or age
7 40?

8 **A. I didn't see that specifically. And**
9 **that's based on what sort of genetic finding?**

10 Q. This medical record says: Ms. Converse
11 has undergone BRCA screening which was negative, has
12 been seen by genetists, recommendation made for
13 daughter to have oophorectomy after completion of
14 childbearing or age 40.

15 MS. THOMPSON: Can you tell us what
16 that medical record is?

17 MS. BROWN: Sure.

18 BY MS. BROWN:

19 Q. This looks like Schwartz 20 to 22. A
20 Yale-New Haven health visit from February 17th, 2012.
21 Have you reviewed the June, 25th, 2014
22 record from Dr. Schwartz dated June 25th, 2014, which
23 is a letter to Ms. Converse stating that: Based on
24 your personal and family history, we recommend your
25 unaffected daughter consider herself at increased

1 risk for breast and ovarian cancer.

2 THE WITNESS: Yes. That doesn't
3 suggest that she should have her tubes and ovaries
4 removed when she's 40.

5 BY MS. BROWN:

6 Q. You report she is being followed
7 closely by her gynecologist and plans to consider
8 prophylactic removal of her ovaries and fallopian
9 tubes at age 48, (ten years younger than your
10 diagnosis).

11 Did you review that?

12 **A. I believe I read that.**

13 Q. Did you consider that same letter that
14 states: As discussed, the pattern of cancers and
15 ages of diagnosis in your family appear to be more
16 than chance alone?

17 MS. THOMPSON: Objection.

18 THE WITNESS: Yes.

19 BY MS. BROWN:

20 Q. Did you review one risk factor that you
21 claim is not present in Ms. Converse is
22 endometriosis, right?

23 **A. Yes.**

24 MS. THOMPSON: How much longer do you
25 have?